

REGULATING THE PRACTICE OF DENTISTRY IN THE DISTRICT OF COLUMBIA

SEPTEMBER 23, 1971.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. McMILLAN, from the Committee on the District of Columbia,
submitted the following

REPORT

[To accompany H.R. 10738]

The Committee on the District of Columbia, to whom was referred the bill (H.R. 10738) to provide for the regulation of the practice of dentistry, including the examination, licensure, registration, and regulation of dentists and dental hygienists, in the District of Columbia, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 14, strike out line 11 and insert in lieu thereof the following: "of any means or device other than the usual size card of announcement".

Page 15, line 11, strike out "who".

Page 15, line 13, strike out "who".

PURPOSE OF THE BILL

The purpose of the bill H.R. 10738, which will be cited as the "District of Columbia Dental Practice Act of 1971," is to repeal the present law regarding the practice of dentistry in the District of Columbia (D.C. Code, sec. 2-301 et seq.), and to replace it with a new body of law regulating the practice of dentistry, including the examination, licensure, registration, and regulation of dentists and dental hygienists in the city. Thus, the bill is actually an up-dating of the 1892 Act on this subject, as amended by the Act of July 2, 1940 (54 Stat. 717).

NEW PROVISIONS

The principal changes which this bill will make as compared to the present law are as follows:

1. The bill will make the D.C. Board of Dental Examiners a statutory Board, with broad powers to promulgate rules and regulations concerning the examination, licensure, registration, and regulation of dentists and dental hygienists. They will also be empowered to prescribe rules and regulations for the overall administration of the entire Act, and also to set and establish fees and charges necessary to defray the approximate cost of administering the Act.

Actually, this Board was statutory and largely autonomous until the Reorganization Act No. 5 of 1952 assigned its powers to the Board of Commissioners of the District of Columbia. These powers were re-assigned by the Reorganization Act No. 3 of 1967 to the Commissioner of the District of Columbia and the D.C. City Council. Thus, at present this Board of Dental Examiners does not have regulatory and administrative powers, and is essentially a licensing body with little or no authority to regulate the profession in any material way.

Your Committee is advised by spokesmen for the District of Columbia Dental Association that the enactment of H.R. 10738, by restoring the D.C. Board of Dental Examiners to its former status as a statutory Board, will eliminate the present necessity of the Board having to go to the D.C. Corporation Counsel to get an order to enable them to enforce some of the regulations which they recognize as badly in need of enforcement . . . and the futility of having their hands tied by not being able to obtain such an order. In short, the Association maintains that the dental profession in the District has not been adequately regulated under the authority of the D.C. Commissioner and the City Council, and that this change to a statutory Board is essential to the best interests of all concerned.

It is the opinion of your Committee that this position is strongly supported by the fact that such statutory Boards of Dental Examiners exist today in 35 states, as follows:

Alabama	Illinois	Rhode Island
Alaska	Indiana	South Carolina
Arizona	Iowa	Tennessee
Arkansas	Kansas	Texas
California	Kentucky	Utah
Colorado	Louisiana	Vermont
Connecticut	Maine	Virginia
Delaware	Maryland	Washington
Florida	New Jersey	West Virginia
Georgia	New York	Wisconsin
Hawaii	Ohio	Wyoming
Idaho	Pennsylvania	

2. The Board of Dental Examiners will be authorized to determine the duties which auxiliary dental personnel (dental hygienists and dental assistants) may perform, under the general direction and supervision of a licensed dentist who is available in person on the premises where such duties are performed, and also to designate the number of such personnel to whom these duties may be assigned in any dental

office. This will provide a new flexibility of authority, as these duties and numbers of employees authorized are specifically spelled out in the present law.

3. As a condition for the issuance of an annual renewal certificate to a dentist or dental hygienist holding a license under this Act, the Board of Dental Examiners will be authorized to require evidence of continuing education on the part of the licensee during the preceding year, not to exceed that prescribed and approved by the American Dental Association. This provision is designed to assure the public of up-to-date and high quality dental services.

4. In the matter of licensing dentists and dental hygienists in the District of Columbia, without written examination, who are licensed in other states or territories where the qualifications for such licensure are substantially the same as those in the District, the bill will eliminate the restriction in the present law that such licensure without examination be extended only to dentists and dental hygienists who are licensed in states or territories which practice a policy of reciprocity with the District of Columbia with respect to such licensure.

This same provision in connection with the licensing of physicians in the District of Columbia without written examination was written into the bill H.R. 8589, to amend the D.C. Healing Arts Practice Act, which was approved by the House on June 14 of this year.

The opinion of your Committee regarding these provisions is that the District of Columbia needs qualified, experienced professional personnel with proven competence and skill in the medical and dental arts, and that meaningless barriers should not be raised against any such persons who wish to come into the District to practice.

5. Section 18 of the bill authorizes the establishment of a non-profit corporation, pursuant to the provisions of the D.C. Nonprofit Corporation Act (D.C. Code, sec. 29-1001 et seq.), for the purpose of underwriting pre-paid dental programs in the District of Columbia. This corporation, which would be required to include as members at least one-fourth of the licensees in private dental practice in the city, would be empowered to function like Group Health and other such organizations which assure medical services to subscribers under a uniform plan, in that citizens and citizen groups would be offered the opportunity to subscribe to the plan offered by the corporation by making regular payments thereto, in return for which they would be entitled to dental services from the members of the corporation, either free of further charge or at greatly reduced charges. Thus, the purpose of the corporation would be to administer programs of pre-paid dental care, by defraying or assuming the cost of dental services to its subscribers.

It is further provided that no part of the net earnings of the corporation shall inure to the benefit of any member, shareholder, or individual, and that the corporation will be limited to acting as an administrative agency between its subscribers and the members of the corporation. Further, any subscriber shall have freedom to choose any licensee member to provide the dental health care for which he has subscribed; and conversely, any licensee member shall be allowed the final decision as to whether or not to render such service to the subscriber.

Several years ago, such an organization, entitled the Dental Services Corporation of the District of Columbia, was incorporated for this purpose. However, the D.C. Corporation Counsel ruled that this corporation cannot underwrite and administer pre-paid dental care programs in the District of Columbia because existing D.C. law prohibits a corporation from engaging in the practice of dentistry in the District. Hence, the purpose of this provision of H.R. 10738 is to authorize the Dental Services Corporation of the District of Columbia to perform this function for which it was organized.

A second corporation, titled the "Dental Health Services Corporation of the District of Columbia", was formed subsequently, solely for the purpose of encouraging other entities to underwrite and administer such pre-paid dental programs in the District. This corporation has recently executed a contract with Group Hospitalization, Inc., under which the latter organization plans to sponsor and administer a program of pre-paid dental services in the city, scheduled to start on November 1 of this year. If this effort proves successful, then the desire of the Dental Association of the District of Columbia to bring such a system of pre-paid dental services to the citizens of the District will have been successfully achieved. However, this Committee feels that the enactment of this provision of H.R. 10738 is highly important as a precautionary measure, as this will furnish a means by which the Dental Services Corporation of the District of Columbia could underwrite and administer this badly needed program of pre-paid dental care in the District in the event the operation of such a program under GHI should prove inadequate or unsatisfactory for any reason.

6. The Commissioner of the District of Columbia will be authorized to determine the number of members of the D.C. Board of Dental Examiners (though a minimum of 5 members is prescribed), as well as the length of terms of such members and their compensation.

7. Officers and members of the faculty of any dental school or college in the District of Columbia will be eligible for appointment to the Board, as well as licensees engaged in full-time private practice of dentistry in the District. The present law forbids such officers and faculty members being appointed to the Board of Dental Examiners, apparently to preclude any possibility of such a member being accused of favoring graduates of the college where he teaches, in licensing or other actions of the Board. However, spokesmen for the D.C. Dental Association have advised your Committee that regardless of the desirability of such a precaution when the present law was first written in 1892, there is no longer any valid reason for its existence today. They point out that some faculty members or officers of the two local dental colleges, those of Georgetown University and Howard University, could in fact offer real contributions as members of the D.C. Board of Dental Examiners.

8. A new provision will require the filing of all dental laboratory authorization slips for a period of not less than two years. These authorization slips are written, detailed descriptions for the construction or repair of any dental restoration or appliance. This new requirement is obviously for the mutual protection of both the patient and the dentist, and is a good example of the need for this legislation to update the present law governing the practice of dentistry in the District of Columbia.

9. Section 21 of the bill makes it unlawful for any person, unless under the auspices of a medical or dental college registered under Chapter 9 of Title 31 of the D.C. Code, to operate a school in the District of Columbia for the training of dental hygienists, dental assistants, dental technicians, or any other auxiliary dental personnel, without the approval of the Board.

Under existing law, the only requirement necessary for establishing a private, proprietary school for any legitimate purpose in the District of Columbia is to obtain a building occupancy permit. In addition, if such a school advertises assistance in finding jobs for its students, it must also be registered with the District of Columbia government as an employment agency.

The genesis of this provision, which was requested by the D.C. Dental Association, was a recent series of newspaper articles charging certain local private career schools, offering courses of training in virtually all vocational fields including that of dental assistants and dental technicians, with certain highly questionable practices such as providing inadequate training for their students and failure to find jobs as promised for their graduates. Thus, it is alleged that these schools provide their students with less than adequate training and services, in return for substantial tuition fees. Your Committee is advised that this situation, which is said to exist in other cities as well, has been the subject of hearings by the Federal Trade Commission, which we understand has proposed national guidelines for regulating such privately operated "career schools".

Meanwhile, the District of Columbia Dental Association feels strongly that the newly created D.C. Board of Dental Examiners can render a very real and important service in the Nation's capital by exerting effective control over the operation of such schools in the city which purport to train auxiliary dental personnel. Your Committee concurs in this opinion, and commends this provision of H.R. 10738 as a highly salutary step in the right direction.

10. The penalties for violations of the various provisions of this Act, while similar to those in the present law, are somewhat more severe. For example, the present law imposes a penalty of not more than \$1,000 for practicing dentistry in the District without a license. This bill will authorize a penalty of not less than \$500 nor more than \$1,000 for the first such offense, and upon a second or subsequent conviction the penalty is \$1,000 fine or imprisonment for a period of six months to one year, or both. Other penalties are similarly stiffened.

SECTION-BY-SECTION ANALYSIS

Section 1 states that this Act may be cited as the "District of Columbia Dental Practice Act of 1971".

Section 2 defines certain terms as used in the Act.

Section 3 is a declaration of policy, to the effect that the practice of dentistry affects the public health and welfare of the city and therefore is subject to regulation and control in the public interest, that this public interest demands that the dental profession merit the confidence of the public, and that all provisions of this Act shall be construed in accordance with this declaration of policy.

Section 4 states that no person shall engage in the practice of dentistry or dental hygiene in the District of Columbia unless he holds a license and a current annual renewal certificate issued under the provisions of this Act. However, it is further provided that persons licensed as a dentist or a dental hygienist under the provisions of the present licensing Act shall be considered to hold valid licenses issued under the provisions of this new Act.

Section 5, subsection (a), creates a District of Columbia Board of Dental Examiners, empowered to promulgate rules, regulations, and procedures it deems necessary pertaining to the examining, licensing, registration, and regulation of dentists, dental hygienists, dental assistants, and the practice of dentistry in the District of Columbia.

Subsection (b) authorizes the Board, after notice by registered mail to each dentist licensed in the District and opportunity for hearing, to prescribe and adopt such rules and regulations as may be necessary for the administration of the provisions of this Act.

Section 6, subsection (a), authorizes the D.C. Commissioner to determine (1) the number of members of the Board of Dental Examiners, which however shall be not less than five; (2) the length of terms for Board members; and (3) the amount of compensation to be paid Board members. It is further provided that the Commissioner may remove any member of the Board for sufficient cause, after reasonable notice and opportunity for hearing.

Subsection (b) provides that the D.C. Commissioner shall appoint each member of the Board from a list of not more than three nor more than seven nominees selected by the District of Columbia chapter of the American Dental Association. Nominees must be persons engaged full time in the practice of dentistry in the District, or officers or members of the faculty of any dental college in the District of Columbia.

Section 7, subsection (a), provides that the Board shall, upon payment of the requisite fees, issue a license to practice dentistry to any person who (1) is a citizen of the United States or has declared his intention to become a citizen; (2) is at least 21 years of age; (3) is of good moral character; (4) is a graduate of a dental college approved by the Board and by the American Dental Association; and (5) has passed a clinical or other examination as prescribed by the Board to determine his competence to practice dentistry.

Subsection (b) provides that the Board may waive the requirement for examination, as set forth in (5) above, in the case of an applicant who has been licensed by examination, and currently holds such license, in another state or territory whose requirements for licensing are substantially the same as those in effect in the District of Columbia, and who otherwise meets the qualifications set forth in subsection (a) of this section.

Subsection (c) authorizes the Board to issue a special license to practice dentistry in the District to an applicant who (1) holds a lawfully issued license to practice dentistry in any other state or territory of the United States; (2) has not had such a license revoked or suspended; (3) is a graduate of a dental college approved by the Board and by the American Dental Association; and (4) has successfully completed any practical or theoretical examination which the Board may require. This same provision exists in present law (D.C. Code,

sec. 2-309(a)), except that the authority to issue such special licenses is vested in the D.C. Commissioner.

The purpose of this special license authorization, which was granted in section 2 of Public Law 90-115, approved Oct. 24, 1967 (81 Stat. 336), is to permit dentists licensed in other jurisdictions to be employed in dental facilities or clinics operated by the government of the District of Columbia, without the necessity of obtaining a regular D.C. license. This is equivalent to the authority provided in section 1 of that same Act, under which special licenses are issued to physicians to practice solely as employees of the D.C. government. Further, special licenses authorized for dentists in the District have been issued in the case of dental specialists who have been brought into the District to conduct instructional clinics or to teach in local schools of dentistry, or for other special purposes. In no case, however, does such a special license permit any dentist to engage in the general practice of dentistry in the District of Columbia.

Section 8, subsection (a), states that the Board shall, upon payment of the requisite fees, issue a license to practice as a dental hygienist to any person who (1) is a citizen of the United States or has declared his intention to become such a citizen; (2) is at least 18 years of age; (3) is of good moral character; (4) is a graduate of a training school for dental hygienist approved by the Board and by the American Dental Association; and (5) has passed a clinical or other examination prescribed by the Board to determine his competence to practice as a dental hygienist.

Subsection (b) provides conditions for licensing of dental hygienists without examination, who are licensed elsewhere, identical to the conditions for licensing of dentists without examination, as set forth in Section 7(b).

Section 9, subsection (a), provides that as a condition to the issuance of an annual renewal certificate to a licensed dentist or dental hygienist currently practicing in the District, the Board may require evidence of that person having obtained, during the year, continuing education not exceeding that prescribed by the American Dental Association, and also such other information as the Board may deem necessary.

Subsection (b) provides that a person holding a license to practice dentistry or dental hygiene, but not currently practicing in the District of Columbia, and who applies for an annual renewal certificate to enable him to resume such practice, may be required by the Board to show evidence that (1) he has not engaged in any conduct which would warrant suspension or revocation of a license under this Act; (2) he has maintained such professional skill and knowledge as is required of current applicants for such license; and (3) he is not mentally or physically incompetent to engage in such practice.

Section 10 provides that the Board may require the registration of, and prescribe regulations governing the professional conduct of, dental interns and dental residents in the District of Columbia.

Section 11 authorizes the Board to make any studies and investigations, and to require the furnishing of such information, under oath or otherwise, as is deems necessary to assist it in establishing any regulation or order under this Act, or in the administration thereof.

For this purpose, the Board may administer oaths, and may require by subpoena or otherwise the attendance and testimony of witnesses and the production of documents. If any person fails to attend as a witness when subpoenaed, or to produce documents when directed to do so, the Board may refer the matter to the Superior Court of the District of Columbia, who may then order the attendance and testimony of the witness or the production of such documents. Upon failure to comply with such a court order, the witness may be punished for contempt. It is further provided that witnesses who have been subpoenaed by the Board shall be paid the same fees that are paid witnesses in the Superior Court of the District of Columbia.

Section 12 provides that a licensed dentist may prescribe drugs and administer local and general anesthetics. Also, he may prescribe, administer, and dispense narcotic drugs in the course of his practice, in compliance with all existing and applicable laws. The definition of narcotic drugs in connection with this Act shall be the same as contained in the Uniform Narcotics Act (D.C. Code, chapter 4 of title 33).

Section 13, subsection (a), states that the Board may refuse to issue, renew, or restore, or may suspend or revoke, a license issued under this Act if the applicant or the holder thereof (1) has engaged in any fraud or deceit in connection with procuring a license; (2) has been convicted of a crime involving moral turpitude; (3) has willfully violated any provision of this Act or any rules or regulations promulgated by the Board; (4) is an intemperate consumer of alcoholic beverages or is addicted to the use of habit-forming drugs; (5) has engaged in any professional or personal conduct which disqualifies him to practice with safety to the public; (6) has advertised professional superiority or prices for professional services, or has advertised by the use of any specified and objectionable displays; or has engaged in misleading advertising, advertising of free services, or advertising a guarantee to perform any dental service painlessly; also, has employed solicitors or free publicity press agents; (7) has employed a person who is not a licensed dentist in the District of Columbia to practice in his office; (8) is mentally incompetent; or (9) has engaged in any unprofessional conduct.

Subsection (b) sets forth the following acts as constituting unprofessional conduct:

- (1) practicing while license is suspended;
- (2) willfully deceiving the Board with reference to any matter under investigation by the Board;
- (3) advertising in any manner other than a modest card or display sign containing only the name, address, office hours, and the like, the size of which shall be designated by the Board;
- (4) failing to execute and retain on file for at least two years a written dental laboratory work authorization when prescribing dental laboratory services for a patient, except when the dentist performs or directs the dental laboratory services in his own office for one of his own patients;
- (5) practicing dentistry in any name other than the name in which he is licensed or a partnership name containing the names of the partners;

(6) violating this Act, violating or aiding any person to violate the dental practice laws of any jurisdiction, or aiding any person to violate this Act;

(7) practicing in the employment of, or in association with, any person who is practicing in an unlawful or unprofessional manner;

(8) fee splitting with a person for bringing or referring a patient or for assisting in the treatment of the patient without the knowledge of the patient or his legal representative, except in the case of two or more licensees practicing as copartners or in a case where a licensee employs another licensee and collects compensation for professional services rendered by him.

It is further stated that these specified acts shall not be construed as a complete and exclusive definition of unprofessional conduct, or as limiting or restricting the Board from holding other acts as constituting unprofessional conduct.

Subsection (c) provides that any denial, suspension, or revocation of a license under this section shall be made only upon specific charges in writing, and that a certified copy of such charge shall be sent by registered mail to the licensee concerned at least 20 days prior to the hearing held to consider such charges.

Subsection (d) states that upon application in writing after an opportunity for hearing, the Board may reinstate a license which it has previously revoked. However, no such application for reinstatement shall be considered prior to the expiration of at least a year following the date of revocation.

Section 14, subsection (a), provides that the Board shall design and adopt a seal for its official use, and that copies of all records and papers certified and authenticated by such seal shall be received in evidence in all courts. Records kept by the Board shall be open to public inspection under reasonable rules and regulations prescribed by the Board.

Subsection (b) states that the Board shall issue annually a printed register of the names and addresses of all licensees under this Act, together with any other information which may be deemed of interest to the dental profession. A copy of such register shall be sent to each registrant.

Section 15 authorizes the Board to set and establish, after a hearing, fees necessary to defray the cost of administering the provisions of this Act, and all funds derived therefrom shall be paid into the U.S. Treasury to the credit of the District of Columbia.

Section 16, subsection (a), provides that any person aggrieved by any final decision of the Board denying, suspending, or revoking a license or renewal of a license, may obtain a review thereof in the District of Columbia Court of Appeals in accordance with the D.C. Administrative Procedure Act.

Subsection (b) authorizes the Board to adopt and establish, after public hearings, such administrative procedures for public hearings in connection with the denial, suspension, and revocation of licenses issued under this Act as may be necessary.

Section 17 authorizes the Board to designate the number of dental assistants and dental hygienists who may be assigned duties by any dentist engaged in private practice.

Section 18 provides that a nonprofit corporation may be formed pursuant to the provisions of the D.C. Nonprofit Corporation Act (D.C. Code, sec. 29-1001 et seq.), for the purpose of defraying or assuring the costs of dental services, subject to the following qualifications:

(1) at least one-fourth of all licenses in active private practice in the District must become members;

(2) membership in the corporation and an opportunity to render professional services on a uniform basis must continuously be available to all such licensees;

(3) voting by proxy and cumulative voting shall be prohibited;

(4) all incorporators must be licensed under this Act;

(5) no part of the net earnings of the corporation shall inure to the benefit of any member, private shareholder, or individual;

(6) the objects and purposes of the corporation must be limited to acting as an administrative agency between those wishing to purchase dental health care under a uniform plan and the members of the corporation;

(7) all subscribers for dental health care administered by the corporation shall be free to choose any licensee member, and conversely any licensee member shall have the final decision as to whether or not to render such service to any such subscriber;

(8) the majority of the members of the board of trustees of such corporation must consist of active members of constituent societies of both the American Dental Association and the National Dental Association and shall also be members of the corporation;

(9) upon the dissolution of such a corporation, no part of its funds or property shall be distributed to or among its members, trustees, officers, or employees, but after payment of all indebtedness the surplus funds and properties of the corporation shall be used for dental education and research as the trustees shall direct;

(10) a certificate must be issued to the corporation by the Board, finding compliance with all the above-listed requirements (1) through (8), and provision to meet the requirement of paragraph (9).

Section 19 provides that nothing in this Act shall be construed as applying to (1) a student of dentistry under the direct supervision of a member of the faculty of an approved dental college in the District of Columbia; (2) a qualified anesthetist, physician, or nurse employed to give an anesthetic for a dental operation under the direct supervision of a licensed dentist; (3) a dental surgeon of any Federal agency, when engaged in the discharge of his official duties; (4) a lawful practitioner of dentistry of another jurisdiction making a clinical demonstration before a dental society, convention, association of dentists, or dental college; (5) a dentist of another jurisdiction performing his duties in connection with a specific case on which he may have been called to the District, when authorized by the Board, or doing free clinical work on nonpaying patients in a hospital or charitable clinic in the District of Columbia after written application for such privilege has been granted by the Board; (6) except as provided in section 10, a dental intern or resident who is a graduate of a

dental school, while performing his duties as a member of the staff of a hospital accredited by the American Hospital Association.

Section 20 provides that it shall be unlawful for any person (1) to practice dentistry under any name except that in which he is licensed; (2) to use the name of any company, association, clinic, trade name, or business name in connection with the practice of dentistry; (3) to practice dentistry without having his license and current annual renewal card conspicuously displayed in his office; (4) to sell or offer to sell a diploma conferring a dental degree, a certificate granted for postgraduate work, or a license granted under this Act; (5) to procure fraudulently a diploma or other evidence of satisfactory completion of educational or professional training required for licensure under this Act, and to use such fraudulently acquired document to obtain a license to practice dentistry in the District of Columbia; (6) to alter, with fraudulent intent, any diploma or other evidence of satisfactory completion of educational or professional training required for licensure under this Act, and to use such fraudulently altered document to obtain a license to practice dentistry in the District; (7) to practice dentistry under a false name, or to assume a title which falsely represents him as having a degree from a dental school, or to make use of the words "dental college" or "school" as equivalent words when not lawfully authorized to do so; (8) to impersonate another at an examination held by the Board, or knowingly to make a false application or a false representation in connection with such an examination; (9) to perform any sort of dental laboratory services except as prescribed on a written authorization signed by a licensed dentist, unless such person himself is a licensed dentist who performs or personally directs any phase of dental laboratory service in his own office for one of his own patients; (10) to accept any fee or other remuneration as compensation for referring patients to any person in connection with the furnishing of dental care or service; or (11) who is a dentist licensed under this Act, to request or order dental laboratory services without first delivering an official written laboratory work authorization, and to fail to retain on file for at least two years a copy of every such dental laboratory work authorization.

Section 21 provides that no person, unless under the auspices of a medical or dental college registered in the District of Columbia, to conduct a school in the District for the training of dental hygienists, dental assistants, dental technicians, or any other auxiliary dental personnel, without the approval of the Board.

Section 22, subsection (a), provides that a person violating paragraph (1) or (2) of section 20 of this Act shall be fined for the first offense not less than \$500 nor more than \$1,000, and for a second or subsequent offense shall be fined not less than \$1,000. Further, upon his conviction his license may be suspended or revoked.

Subsection (b) provides a penalty of not more than \$50 for violation of paragraph (3) of section 20.

Subsection (c) provides that a person violating section 4 of the Act, or paragraph (4), (5), (6), (7), (8), or (9) of section 20 thereof, shall be fined for the first offense not less than \$500 nor more than \$1,000, and for a second or subsequent offense, shall be fined \$1,000 or imprisoned for not less than six months nor more than one year, or both.

Subsection (d) provides that a person violating paragraph (10) or (11) of section 20 of this Act shall be fined not more than \$500.

Subsection (e) provides that a person who violates section 21 of this Act shall be fined not less than \$500 nor more than \$1,000 or imprisoned for not more than one year, or both.

Subsection (f) provides that any person subject to this Act who knowingly falsifies or conceals a material fact, or makes any false statement or representation, or uses any false document knowing it to contain any false statement, shall be fined not more than \$1,000 or imprisoned for not more than 6 months, or both.

Section 23, subsection (a), provides that prosecutions for violations of any provision of this Act shall be conducted in the name of the District of Columbia, in the Superior Court of the District of Columbia, by the D.C. Corporation Counsel.

Subsection (b) provides that it shall be necessary to prove in any prosecution or hearing under this Act, only a single act prohibited by law, without proving a general course of conduct, in order to constitute a violation.

Section 24 provides that whenever in the judgment of the Board any person has engaged in or is about to engage in any act which will constitute a violation of this Act, the Board may seek from the D.C. Court of Appeals an order enjoining such act, and upon satisfactory showing an injunction, restraining order, or other such order as may be appropriate shall be granted by the court, without bond.

Section 25 authorizes the appropriation, out of revenues of the District of Columbia, of such funds as may be necessary to pay the expenses of administering the provisions of this Act.

Section 26 repeals the Act of June 6, 1892 (D.C. Code, chapter 3 of title 2).

Section 27 provides that the Act shall take effect ninety days after the date of its enactment.

HEARING

A public hearing on this proposed legislation was held on July 19, 1971, and testimony in favor of its enactment was offered by spokesmen for the American Dental Association and the District of Columbia Dental Association.

COST

No cost to the District of Columbia government will result from the enactment of this bill.

CONCLUSIONS

This bill represents the culmination of some eight years of intensive study and consideration on the part of the District of Columbia Dental Association. Your Committee is strongly of the opinion that the provisions of H.R. 10738 are constructive and essential for the continued ability of the dental profession in the District of Columbia to provide modern and adequate dental care services to the citizens of this city. For this reason, we urge the approval of this proposed legislation in the public interest.

COMMITTEE AMENDMENTS

The Committee amendments to the bill are purely technical in nature, and make no substantive changes in the bill.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets) :

ACT OF JUNE 6, 1892

[AN ACT

[To amend the Act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto, approved June 6, 1892, and Acts amendatory thereof.

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto, approved June 6, 1892, and Acts amendatory thereof, are further amended to read as follows:

[SEC. 1. Members of the Board of Dental Examiners, five in number, shall be appointed by the Board of Commissioners of the District of Columbia.

[No person shall be eligible for appointment to the Board of Dental Examiners who is not a citizen of the United States and who has not been for five years next preceding his appointment a resident and in the active and reputable practice of dentistry in the District of Columbia. Appointments shall be for a term of five years or until their successors are appointed and qualified, and shall be from a list of three to seven eligibles submitted by the dental societies of the District of Columbia; and no officer or member of the faculty of any dental school or college shall be eligible for appointment upon said Board.

[SEC. 2. The Board of Dental Examiners shall organize by electing from its members a president, and a secretary-treasurer who shall give bond to the United States in the sum of \$5,000. The Board shall make and adopt such rules and regulations not inconsistent herewith as it deems necessary to effect the purposes of this Act, including (but not limited thereto) rules and regulations respecting the eligibility of candidates, the scope of examinations, the conducting of examinations, and the said Board hereby is specifically authorized to make and enforce such rules as it may deem proper for the purpose of regulating professional announcements and the number of offices of a licensed dentist. The Board, in its discretion, and under such rules and regulations as it may prescribe, is hereby authorized to permit in hospitals the use of dental internes who are graduates of approved dental schools. The Board shall hold in January and June of each year, in such place as it may designate, examinations to determine the fitness of applicants for licenses as dentists under this Act.

[SEC. 3. The Board of Dental Examiners shall have an official seal, and shall keep a record of its proceedings, a complete record of the credentials of each licensee, and a register of persons licensed as dentists and of licenses revoked. A transcript of an entry in such records, certified by the secretary-treasurer under seal of the Board, shall be evidence of the facts therein stated.

[SEC. 4. The said Board shall have power to require the attendance of persons and the production of books and papers and to require such persons to testify in any and all matters within its jurisdiction. The president and secretary-treasurer of the Board shall have power to issue subpoenas and each shall have authority to administer oaths. Upon the failure of any person to attend as a witness, when duly subpoenaed, or to produce documents when duly directed by said Board, the Board shall have power to refer the said matter to any justice of the Superior Court of the District of Columbia, who may order the attendance of such witness, or the production of such documents, or require the said witness to testify, as the case may be, and upon the failure of the witness to attend, to testify, or to produce such documents, as the case may be, such witness may be punished for contempt of court as for failure to obey a subpoena issued or to testify in a case pending before said court. Witnesses who have been subpoenaed by the Board, and who testify if called upon, shall be paid the same fees that are paid witnesses in the Superior Court of the District of Columbia.

[SEC. 5. (1) It shall be the duty of the secretary-treasurer of the Board to enforce the provisions of all laws relating to the practice of dentistry in the District of Columbia, and all violations of said laws shall be prosecuted in the Superior Court of the District of Columbia by the corporation counsel or one of his assistants; and the corporation counsel and his assistants shall render such other legal services as may from time to time be required by the Board of Dental Examiners.

[(2) The major and superintendent of the Metropolitan Police Department shall detail such members of his force as may be necessary to assist the Board in the investigations and prosecutions incident to the enforcement of this Act. The Board is authorized to employ such other persons as it deems necessary to assist in the investigation and prosecutions incident to the enforcement of this Act.

[SEC. 6. The Board of Dental Examiners shall make annual reports to the District Commissioners, containing a statement of moneys received and disbursed and a summary of its official acts during the preceding year.

[SEC. 7. Any person who desires to practice dentistry within the District of Columbia shall file with the secretary-treasurer of the Board a written application for a license, and furnish satisfactory proof that he is a citizen of the United States or has duly declared his intention to become a citizen of the United States, and is a graduate of a dental college approved by the Board. Such application must be upon the form prescribed by the Board, verified by oath, and accompanied by the required fee and a recent unmounted autographed photograph of the applicant. Any license issued to a person who is a citizen of a foreign country, and who has duly declared his intention to become a citizen of the United States shall automatically terminate and the registration of the candidate be annulled in the event such candidate shall fail to submit to the Board satisfactory evidence within six years from the date of such license that he has become a citizen of the United States.

[SEC. 8. (a) An applicant for a license to practice dentistry shall appear before the Board at its first meeting after the filing of his application, and pass a satisfactory examination, consisting of prac-

tical demonstrations and written or oral test, or both, in the following subjects: Anatomy, anesthetics, bacteriology, chemistry, histology, operative dentistry, oral surgery, orthodontia, pathology, physiology, prosthetic dentistry, materia medica, metallurgy, and therapeutics, and such other subjects as the Board may from time to time direct: *Provided*, That the Board may waive the theoretical examination in the case of an applicant who furnishes proof satisfactory to said Board that he is a graduate from a reputable dental college of a State or Territory of the United States, approved by the Board, and holds a license from a similar dental board, with requirements equal to those of the District of Columbia, and who, for five consecutive years next prior to filing his application, has been in the lawful and reputable practice of dentistry in the State or Territory of the United States from which he applies: *Provided*, That the laws of such State or Territory accord equal rights to a dentist of the District of Columbia holding a license from the Board of the District of Columbia, who desires to practice his profession in such State or Territory of the United States. An applicant desiring to register in the District of Columbia under this section must furnish the Board with a letter from the secretary of the board of dental examiners under seal of the board of dental examiners of the State or Territory of the United States from which he applies, which shall state that he has been in the lawful and reputable practice of dentistry in the State or Territory from which he applies for the five years next prior to filing his application, and shall also attest to his moral character and professional qualifications. The Board of Dental Examiners may, in its discretion, waive the theoretical examination and issue a license to any applicant who holds a certificate from the National Board of Dental Examiners: *Provided*, That such applicant shall pass a practical examination given by the Board of Dental Examiners: *Provided further*, That in exercising its discretion to waive theoretical examinations the Board of Dental Examiners shall satisfy itself that the examination given by the National Board of Dental Examiners was as comprehensive as that required in the District of Columbia.

[(b) If such applicant passes the examination and is, in the opinion of the Board, of good moral character, he shall receive a license from the Board, attested by its seal, signed by the members of the Board, and registered with the health officer, which, after being registered with the health officer, shall be conclusive evidence of his right to practice dentistry in the District of Columbia. If the loss of a license is satisfactorily shown, a duplicate thereof shall be issued by the Board upon payment of the required fee.

[SEC. 9. (a) (1) The Commissioners may issue to qualified applicants a special license to practice dentistry in the District of Columbia under such limitations as the Commissioners shall set forth in the license.

[(2) For purposes of paragraph (1) of this subsection, the term "qualified applicant" means a person—

[(A) who holds a license to practice dentistry in a State or other jurisdiction forming a part of the United States which license has been lawfully issued;

[(B) who has not had any license to practice dentistry revoked or suspended in any jurisdiction;

[(C) who is a graduate of a reputable dental college, approved by the Commissioners; and

[(D) who has successfully completed any practical or theoretical examination which the Commissioners may require.

[(b) The provisions of the following sections of this Act shall apply with respect to a license issued under this section: section 11 (relating to revocation or suspension of license), section 12 (relating to procedure in suspending or revoking license), section 13 (relating to fees), and section 14 (annual registration of dentists).

[SEC. 10. The practice of dentistry in the District of Columbia is hereby declared to affect the public health and safety and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the dental profession merit and receive the confidence of the public and that only qualified dentists be permitted to practice dentistry, in the District of Columbia. All provisions of this Act relating to the practice of dentistry shall be construed in accordance with this declaration of policy.

[SEC. 11. The Board may revoke or suspend the license of any dentist in the District of Columbia upon proof satisfactory to the Board—

[(a) That said license or registration was procured through fraud or misrepresentation.

[(b) That the holder thereof has been convicted of an offense involving moral turpitude.

[(c) That the holder thereof is guilty of chronic or persistent inebriety, or addiction to habit-forming drugs.

[(d) That the holder thereof is guilty of advertising professional superiority or the performance of professional services in a superior manner; advertising prices for professional service; advertising by means of large display, glaring light signs, or containing as a part thereof the representation of a tooth, teeth, bridgework, or any portion of the human head; employing or making use of solicitors or free publicity press agents directly or indirectly; or advertising any free dental work, or free examination; or advertising to guarantee any dental service or to perform any dental operation painlessly.

[(e) That such holder is guilty of conduct which disqualifies him to practice with safety to the public.

[(f) That such holder is guilty of hiring, supervising, permitting, or aiding unlicensed persons to practice dentistry.

[(g) That such holder, being a manager, proprietor, operator, or conductor of a place where dental operations are performed, employs a person who is not a licensed dentist to practice dentistry as defined in this Act, or permits such persons to practice dentistry in his office.

[(h) That such holder is guilty of unprofessional conduct.

[The following acts on the part of a licensed dentist are hereby declared to constitute unprofessional conduct:

[(1) Practicing while his license is suspended.

[(2) Willfully deceiving or attempting to deceive the Board or their agents with reference to any matter under investigation by the Board.

[(3) Advertising by any medium other than the carrying or publishing of a modest professional card or the display of a modest

window or street sign at the licensee's office, which professional card or window or street sign shall display only the name, address, profession, office hours, telephone connections, and, if his practice is so limited, his specialty: *Provided*, That in case of announcement of change of address or the starting of practice, the usual size card of announcement may be used. The size of said cards or signs shall be designated by the Board.

[(4) Practicing dentistry under a false or assumed name or corporate name other than a partnership name containing the names of the partners, or any name except his full proper name which shall be the name used in his license granted by the Board.

[(5) Violating this Act or aiding any person to violate this Act or violating or aiding any person to knowingly violate the dental practice act of any State or Territory.

[(6) Practicing in the employment of, or in association with, any person who is practicing in an unlawful or unprofessional manner.

[The foregoing specifications of acts constituting unprofessional conduct shall not be construed as a complete definition of unprofessional conduct nor as authorizing or permitting the performance of other or similar acts not denounced, or as limiting or restricting the Board from holding that other or similar acts also constitute unprofessional conduct.

[SEC. 12. Suspension or revocation by the Board of any license issued or registration effected under this Act, with respect to a person guilty of misconduct or professionally incapacitated, shall be governed by the District of Columbia Administrative Procedure Act (D.C. Code, secs. 1-1501 to 1-1510).

[SEC. 13. That in addition to the fees heretofore fixed herein each applicant for a license as dentist shall deposit with his application a fee of \$20; with each application for a duplicate license a fee of \$5 shall be paid to said Board, and for each certificate issued by said Board a fee of \$1 shall be paid. That out of the fees paid to said Board, as provided by this Act, there shall be defrayed all expenses incurred in carrying out the provisions herein contained, including the detection and prosecution of violations of this Act, together with a fee of \$10 per diem for each member of said Board for each day he may be actually engaged upon business pertaining to his official duties as such Board member: *Provided*, That such expense shall in no event exceed the total of receipts.

[SEC. 14. During the month of December of each year, every licensed dentist shall register with the secretary-treasurer of the Board his name and office address and such other information as the Board may deem necessary upon blanks obtainable from said secretary-treasurer, and thereupon pay a registration fee of \$5. On or before the 1st day of November of each year it shall be the duty of the secretary-treasurer of the Board to mail to each dentist licensed in the District of Columbia, at his last-known address, a blank form for registration. In the event of failure to register on or before the 31st day of December a fine of \$5 and the registration fee of \$5 will be imposed, and should the practitioner fail to register and pay the fine imposed and continue to practice his profession in the District of Columbia, he shall at the end of ten days from said date be considered as practicing illegally and

penalized as otherwise provided for in this Act. If he suspends his practice he may, in the discretion of the Board, upon furnishing satisfactory evidence as to his moral character and professional standing, be reinstated at any time upon registering and paying a prescribed fee of \$25. On or before the 1st day of February, annually, said Board shall issue a printed register of the names and addresses so received, together with other information deemed interesting to the profession, a copy of which shall be mailed or otherwise sent to each registrant thereon.

[SEC. 15. Any person shall be deemed to be practicing dentistry who performs, or attempts or advertises to perform, any dental operation or oral surgery or dental service of any kind gratuitously or for a salary, fee, money, or other remunerations paid, or to be paid, directly or indirectly, to himself or to any other person or agency; or who is a manager, proprietor, operator, or conductor of a place where dental operations, oral surgery, or dental services are performed; or who directly or indirectly, by any means or method, furnishes, supplies, constructs, reproduces, or repairs any prosthetic denture, bridge, appliance, or any other structure to be worn in the human mouth, except on the written prescription of a duly licensed and practicing dentist; or who places such appliance or structure in the human mouth or attempts to adjust the same, or delivers the same to any person other than the dentist upon whose prescription the work was performed; or who advertises to the public, by any method, to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth; or who diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of human teeth or jaws, or adjacent structures; or who extracts or attempts to extract human teeth, or corrects or attempts or professes to correct malpositions of teeth or of the jaws; or who gives, or professes to give interpretations or readings of dental roentgenograms; or who administers an anesthetic of any nature in connection with a dental operation; or who uses the words "dentist," "dental surgeon," "oral surgeon," the letters "D. D. S.," "D. M. D.," or any other words, letters, title, or descriptive matter which in any way represent him as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of human teeth or jaws, or adjacent structures; or who states, or advertises or permits to be stated or advertised, by sign, card, circular, handbill, newspaper, radio, or otherwise, that he can perform or will attempt to perform dental operations or render a diagnosis in connection therewith or who engages in any of the practices included in the curricula of recognized dental colleges. Notwithstanding the provisions of this section, no person shall be deemed to be practicing dentistry who on the date of the enactment of this Act is operating a radiographic laboratory for the purpose of making radiographs, or giving written clinical interpretations or readings of dental radiographs, to be used solely by dentists and physicians in making diagnoses.

[SEC. 16. On and after the passage of this Act it shall be unlawful for any person or persons to practice or offer to practice dentistry or

dental surgery under any name except his proper name, which shall be the name used in his license granted to him as a dentist, as provided for in this Act; and unlawful to use the name of any company, association, corporation, trade name, or business name in connection with the practice of dentistry as defined in this law. Any person convicted of a violation of the provisions of this section shall be fined for the first offense not more than \$200, and upon a second or any subsequent conviction thereof, by a fine not to exceed \$500, and upon conviction his license may be suspended or revoked.

[SEC. 17. Nothing in this Act shall apply to a bona fide student of dentistry in the clinic rooms of a reputable dental college; to a legally qualified physician or surgeon unless he practices dentistry as a specialty; to a qualified anesthetist, physician, or registered nurse employed to give an anesthetic for a dental operation under the direct supervision of a licensed dentist; to a dental surgeon of the United States Army, Navy, Public Health Service, or Veterans' Administration, in the discharge of his official duties, nor to a lawful practitioner of dentistry in another State or Territory making a clinical demonstration before a dental society, convention, association of dentists, or dental college, or performing his duties in connection with a specific case on which he may have been called to the District of Columbia.

[SEC. 18. Whoever engages in the practice of dentistry and fails to keep displayed in a conspicuous place in the operating room in which he practices, and in such manner as to be easily seen and read, the license and annual registration card granted him pursuant to the laws of the District of Columbia, shall be fined not more than \$50.

[SEC. 19. Whoever sells or offers to sell a diploma conferring a dental degree or a certificate granted for postgraduate work, or a license granted pursuant to this Act, or whoever, not being the person to whom a diploma, certificate, or license was granted, procures such diploma, certificate, or license with intent to use the same as evidence of his right to practice dentistry, or whoever, with fraudulent intent, alters any diploma, certificate, or license, or uses or attempts to use the same, shall be fined not more than \$1,000.

[SEC. 20. Whoever practices dentistry under a false name, or assumes a title, or appends or prefixes to his name letters which falsely represent him as having a degree from a chartered dental college, or makes use of the words 'dental college' or 'school' or equivalent words when not lawfully authorized so to do, or impersonates another at an examination held by the Board, or knowingly makes a false application or a false representation in connection with such examination, shall be fined not more than \$1,000.

[SEC. 21. No person or persons, corporation, or educational institution, except those now duly chartered, shall conduct classes or a school for postgraduate dentistry in the District of Columbia unless with the approval of the Board, and whoever violates this provision shall, upon conviction, be fined not more than \$500.

[SEC. 22. It shall be unlawful for any person to follow the occupation of dental hygienist in the District of Columbia without having first complied with the provisions of this Act and having been registered as hereinafter provided.

【SEC. 23. Any person of good moral character and a citizen of the United States being not less than eighteen years of age, who desires to register as a dental hygienist in the District of Columbia and files with the secretary-treasurer of the Board a written application for a license, and furnishes satisfactory proof that he is a graduate of a training school for dental hygienists requiring a course of not less than one academic year, and approved by the Board, may make application to be licensed as a dental hygienist in the District of Columbia upon the form prescribed by the Board, verified by oath, and accompanied by the required fee (\$10) and a recent unmounted autographed photograph of applicant.

【SEC. 24. An applicant for a license as dental hygienist shall appear before the Board at its first examination after the filing of his application and pass a satisfactory examination consisting of practical demonstrations and written or oral tests on such subjects as the Board may direct. If such applicant passes the examination and is of good moral character, he shall receive a license from the Board, attested by its seal, signed by the members of the Board, which after being registered with the health officer shall be conclusive evidence of his right to practice as a dental hygienist in the District of Columbia according to the provisions of this Act. The Board of Dental Examiners may, in its discretion, waive the theoretical examination and issue a license to any applicant who holds a certificate from the National Board of Dental Examiners: *Provided*, That such applicant shall pass a practical examination given by the Board of Dental Examiners: *Provided further*, That in exercising its discretion to waive theoretical examinations the Board of Dental Examiners shall satisfy itself that the examination given by the National Board of Dental Examiners was as comprehensive as that required in the District of Columbia.

【SEC. 25. No licensed dentist may employ more than two such licensed dental hygienists without written permission of the Board. Public institutions and the Health Department of the District of Columbia may employ such licensed dental hygienists and shall not be limited as to the number of licensed dental hygienists that may be employed. A licensed dental hygienist may remove calcic deposits, accretions, and stains from the surfaces of the teeth, but shall not perform any other operation, or diagnose or treat any pathological conditions of the teeth or tissues of the mouth. A registered dental hygienist may operate only under the general direction or supervision of a licensed dentist, in his office or in any public school or other institution rendering dental services, not in violation of the provisions of this Act. The license of a dentist who permits a dental hygienist, operating under his supervision, to perform any operation other than that permitted under this section, may be suspended or revoked, and the license of the hygienist violating this Act may also be suspended or revoked, in accordance with section 12 of this Act.

【SEC. 26. Any dental hygienist of good moral character duly licensed to practice as such in any State or Territory of the United States, having and maintaining an equal standard of laws regulating the practice of dental hygiene with the laws of the District of Columbia, who has been in the lawful practice of dental hygiene for a period of not less than two years in such State or Territory

and who files with the secretary-treasurer of the Board of the District of Columbia a certificate from the board of the State or Territory in which he is licensed, certifying to his professional qualifications and length of service, and who passes a satisfactory practical examination conducted by the Board, may at the discretion of the Board be licensed without further examination upon the payment of the required fee of \$10 and the certificate fee of \$1: *Provided*, That the laws of such State or Territory accord equal rights to a dental hygienist of the District of Columbia holding a license from the Board of the District of Columbia who desires to practice dental hygiene in such State or Territory of the United States.

[SEC. 27. The duties and powers of the Board respecting the practice of dentistry as set forth in this Act shall apply, unless otherwise specified, equally and in all respects whatsoever to the practice of dental hygiene; and the practice of dental hygiene is hereby declared to affect the public health and safety and to be subject to regulation and control in the public interest to the same extent as herein set forth with respect to the practice of dentistry. The annual registration fee for licensed dental hygienists shall be \$3.

[SEC. 28. Whoever engages in the practice of dentistry without a license so to do, or whoever violates any provision of law relating to the practice of dentistry or dental hygiene or the application for examination and licensing of dentists and dental hygienists, for which no specific penalty has been prescribed shall be fined not more than \$1,000.

[SEC. 29. A second or subsequent conviction under sections 19, 20, 21, and 28 shall be punished by the maximum penalties prescribed therein, or imprisonment in jail or workhouse not less than six months nor more than one year, or by both such fine and imprisonment.

[SEC. 30. When used in this Act—

[(1) Personal pronouns include all genders.

[(2) The term 'Board' means the Board of Dental Examiners.

[(3) Advertising shall be deemed to include those in public print, by radio, or any other form of public announcement.

[SEC. 31. Rules and regulations adopted by the Board shall become effective thirty days after promulgation: *Provided*, That notice of such rules and regulations is published once a week for three consecutive weeks during that period in a newspaper of general circulation in the District of Columbia, and that notice be mailed to each registered dentists and dental hygienist in the District of Columbia.

[SEC. 32. Should any section or provision of this Act be decided by the courts to be unconstitutional or invalid, the validity of the Act as a whole or of any part thereof other than the part decided to be unconstitutional shall not be affected. The right to alter, amend, or repeal this Act is hereby expressly reserved.

[SEC. 33. All Acts or parts thereof heretofore enacted into law and inconsistent herewith are hereby repealed.]



